

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

JASON N. WITMER,)	
)	
Petitioner,)	4:03cv3315
)	
vs.)	MEMORANDUM AND ORDER
)	
ROBERT HOUSTON,)	
)	
Respondent.)	

This matter is before the court on filing no. 64, the respondent's Motion to Request an Order for the Filing of a Sealed Copy of the Presentence Investigation Report; and filing no. 65, the petitioner's Objection. The parties are in the course of submitting their final briefs in connection with the Petition for Writ of Habeas Corpus filed by the petitioner, Jason N. Witmer. The respondent asks the court to direct the District 6 Probation Office for Lancaster County, to prepare and file a sealed copy of the petitioner's presentence investigation report filed in the case of State v. Witmer, Lancaster County Docket No. CR99-1107. The petitioner objects that the respondent's designation of an additional state record is out of time and that he would be prejudiced by denial of access to the record. The respondent has not explained the necessity of the record or any rationale for this court's reliance on a document unavailable to the petitioner. Therefore, filing no. 64 is denied, and filing no. 65 is sustained, without prejudice to my reconsideration of the issue if necessary in the future.

SO ORDERED.

April 28, 2006.

BY THE COURT:

s/ Richard G. Kopf
United States District Judge